IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Vikram Singh Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.1314/2006

DATE OF ORDER :: October 11, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.N.S.Rathore, for the petitioner.
Mr.Ashok Upadhyaya, P.P.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner has challenged the order dt. 26.8.2006 passed by the Additional Sessions Judge, Rajgarh, Distt. Churu (for short 'the revisional court' hereinafter), whereby the revision petition filed by the present petitioner against the order dt. 22.3.2006 passed by the Additional Chief Judicial Magistrate, Rajgarh, Distt. Churu (for short 'the trial court' hereinafter), was dismissed.

I have heard learned counsel for the petitioner and the

Public Prosecutor.

It is contended by the learned counsel for the petitioner that the trial court as well as the revisional court have not recorded the evidence on the basis of which the petitioner has been arraigned as accused sought to be tried along with the co-accused facing trial. There is reasonable prospectus of ultimate case ending in the conviction of the petitioner. He has relied on decisions in Hon'ble Supreme Court in Michael Machado & Anr. vs. Central Bureau of Investigation & Anr., 2000 Cr.L.R. (SC) 265, Palanisamy Gounder & Anr. Vs. State represented by Inspector of Police, (2006) 1 SCC (Cri)568, Kavuluri Vivekananda Reddy & Anr. vs. State of A.P. & Anr., (2006) 2 SCC (Cri) 324 and Kailash Dwivedi vs. State of M.P.& Anr., (2006) 1 SCC (Cri) 764.

From a careful perusal of the statement of PW.2 Ramesh Kanwar and PW.3 Balu Singh and also the FIR, it is clear that right from the lodging of the first information report, the case of the first informant is consistent that the petitioner was one of the assailants and has been impleaded as one of the accused, and specific role/overt act has been assigned to him in the FIR. Learned counsel for the petitioner has also stated that on the very day of occurrence, there had been a proceeding against the

petitioner and co-accused under section 107 IPC in which the petitioner has also been impleaded. This shows that at the time of occurrence, the petitioner was very much present at the place of occurrence and according to the statements of PW.1 and PW.3, he participated in the occurrence.

Keeping in view the statements of PW.1 and PW.3 and the fact that right from the lodging of the FIR, the prosecution case is consistent and the petitioner has not been challaned for the reasons best known to the police, it cannot be a ground to say that prima facie the petitioner was not present at the place of occurrence or did not participate in occurrence. The aforesaid decisions relied on by the learned counsel for the petitioners turn on their own facts and are of no help to the petitioner.

The petition is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-